1		BEFORE THE
2	FLORIDA	PUBLIC SERVICE COMMISSION
3	In the Matter of:	
4		DOCKET NO. 110018-EU
5	JOINT PETITION FOR	·
6	TO DETERMINATION (EXPANSION OF AN EXPANSION O	XISTING RENEWABLE
7	ENERGY ELECTRICAL PALM BEACH COUNTY	BY SOLID WASTE
8	AUTHORITY OF PALM AND FLORIDA POWER	& LIGHT COMPANY,
9		FING AND PURCHASED
10	POWER AGREEMENT CO	OST RECOVERY.
11		
12	PROCEEDINGS:	AGENDA CONFERENCE ITEM NO. 4
13	COMMISSIONERS	
14	PARTICIPATING:	CHAIRMAN ART GRAHAM CCMMISSIONER LISA POLAK EDGAR
15		CCMMISSIONER RONALD A. BRISÉ CCMMISSIONER EDUARDO E. BALBIS
16		CCMMISSIONER JULIE I. BROWN
17	DATE:	Tuesday, June 14, 2011
18	PLACE:	Betty Easley Conference Center Room 148
19		4075 Esplanade Way
20	REPORTED BY:	Tallahassee, Florida
21	REPORTED BI:	LINDA BOLES, RPR, CRR Official FPSC Reporter
22		(850) 413-6734
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		DOCUMENT WINDER OF THE

DOCUMENT NUMBER-DATE

PROCEEDINGS

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CHAIRMAN GRAHAM: Okay. Staff, now it's time for the fun one.

MR. BROWN: Good morning, Mr. Chairman, fellow Shevie Brown from the Division of Commissioners. Regulatory Analysis.

Item 4 is a joint petition filed by the Solid Waste Authority of Palm Beach County and Florida Power & Light seeking two primary actions: Pursuant to Section 403.519, Florida Statutes, to modify a need determination in order to allow the SWA to expand its existing renewable energy electrical power plant in Palm Beach County. Secondly, pursuant to Section 377.709, Florida Statutes, approval of a purchased power agreement between the joint petitioners and approval of associated regulatory accounting treatment and cost recovery by FP&L.

The final record in this case demonstrates that the expanded facility will enhance the reliability of FP&L's system and will improve the utility's fuel diversity. Therefore, Staff is recommending that the Commission grant the SWA's request for the determination of need of the expanded facility.

Commissioners, Staff has provided primary and

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secondary recommendations in Issues 6, 7, 9, and 9A regarding the cost-effectiveness of the project and the advanced funding payment made by FP&L.

The primary recommendation is that the advanced funding payment is less than FP&L's current avoided cost, and so the proposed project is cost-effective. Unlike a traditional PPA, if the contract were extended or the committed capacity was increased, then FP&L's customers would experience additional savings. Therefore, the primary recommendation is to improve -- to approve the contract but also encourage the parties to vigorously explore the option of extending the term of the contract or increasing the capacity in order to increase ratepayer savings.

The alternate recommend -- the alternate recommendation is that there is considerable uncertainty associated with the cost-effectiveness of the project specifically relating to the timing of FP&L's 2016 avoided unit. Pursuant to Section 377.709(3)(b), the Commission may modify a contract for the advanced funding with the agreement of both parties.

Alternate Staff also recommends that the joint petitioners be afforded the opportunity to correct this deficiency by mutually agreeing to amend the proposed

contract.

The Commission should not approve -- alternate Staff also recommends that the Commission should not approve the contract until it is shown to be cost-effective. However, alternate Staff thinks that the contract -- excuse me. Alternate Staff does contend that the need for the expanded facility should be granted so that, so that SWA, excuse me, should be allowed to move forward with the power plant siting process.

Commissioners, if you turn to page 11 of the recommendation, you'll see an order regarding, Staff's suggested order regarding how we could tee up the issues for you; however, that is at your discretion. And at this time we're available for discussion on the item.

CHAIRMAN GRAHAM: Thank you, Mr. Brown. I think we will follow the Staff recommendation on the order.

Commissioner Balbis.

COMMISSIONER BALBIS: Thank you, Mr. Chairman.

You know, I'd like to just start with kind of an overview of the benefits that I saw of this project and then, and then a couple of, of general questions for, for Staff that hopefully kind of follows the suggested order of the issues, but it might jump around a little bit. And I'll try and be as, as brief as possible.

You know, one thing that, that I saw with this project in the application by Solid Waste Authority is, you know, the benefits of it from, from a lot of different angles.

You know, one, the, the job creation benefits of 400 temporary jobs, 70 full-time jobs that were listed. And really the, what's interesting about this is you have, you know, different services being provided where, you know, if this project were not to move forward as listed in their application, they would have to seek either a western landfill or other means of disposal, which, which I would expect would result in higher tipping fees. So you have a project that, you know, not only would result in lower tipping fees but would also provide, you know, up to 70 megawatts of renewable energy.

Which brings me to my next benefit, the fact that this project will increase by 38 percent Florida Power & Light's renewable portfolio, if you will, and provide what's listed in the information of around 575,000-megawatt hours of renewable energy capacity, which Staff has provided me -- for Florida Power & Light that could equate to about 40,000 customers.

So with that, I just want to go real quickly to a couple of questions that I have. And, and if I jump around a little bit, I apologize. But, Staff, you recommended that the parties, I believe the term was vigorously pursue an extension of 26 months. How would that make this contract more cost-effective with that extension?

MR. BROWN: It would increase the savings obviously, Commissioner, because of the value of deferral at 70 megawatts or 80 megawatts. Then it would give an upward pressure on the savings to about an additional maybe \$5 million if, if they agree to extend the contract.

COMMISSIONER BALBIS: Now in lieu of just recommending that they work towards that, is that something that the Commission could require in the order that the term of the contract be extended by 26 months?

MR. MURPHY: We could make our approval of the contract contingent on that, but the statute is such that they have to mutually agree to it in addition to us ordering it.

COMMISSIONER BALBIS: Okay. So we would, we could make an approval contingent upon that, again, if the Commission agrees, and then give administrative authority to Staff if the contract returns with that

provision? Is that how that would work?

MR. MURPHY: Yes, you could do that. That would be at the close docket issue that you would have administrative approval of the contract. And that, I would think, you'd need to keep separate from the need determination, which I believe the recommendation is that that would go final so that they could move forward with that.

question -- and I assume, Mr. Trapp, you're alternate
Staff or leading the alternate Staff charge. In its
Issue 3 on page 9 where you're discussing the advanced
capacity payment and recovering that in one year rather
than over the life of the contract, could you just
briefly explain what the benefit to the ratepayers would
be for the one-year recovery?

MR. TRAPP: Bob Trapp. I am representing alternate Staff in this recommendation. And actually I think I need to point out that that suggestion was made in the primary Staff's analysis.

COMMISSIONER BALBIS: Okay.

MR. TRAPP: But I'll be happy to respond from my perspective and, and tell you of course my concern as alternate Staff is over the planning assumptions in this case and, and whether or not this proposed contract is

cost-effective to Florida Power & Light's ratepayers.

So looking at how you collect the money, which is separate from the determination of avoided cost, I want to be clear about that, the statute says we need to determine avoided cost and compare it to the cost of the electric component.

But this Commission also has ratemaking authority over Florida Power & Light. And to the extent that there are benefits to be gained in terms of cash flow and reduced revenue requirements paid by ratepayers by accelerating the recovery, that would also add benefit to the bottom line that ratepayers are paying for this project and improve the overall cost-effectiveness.

commissioner Balbis: Okay. And then on kind of the same vein a little bit, the, just looking at the information in the record, I know there was a lot of discussion on the committed capacity that's included in the, in the purchased power agreement, and I believe in the purchased power agreement it lists a range of 45 to 90 megawatts; is that correct?

MR. TRAPP: That is correct.

COMMISSIONER BALBIS: And as far as Staff's analysis, and I believe it was listed there was concern over that, if a tightening of that number to, you know,

the 70 megawatts, would that alleviate some of your concerns as well as far as the cost-effectiveness?

MR. TRAPP: I think both the primary Staff and the alternate Staff analysis is dependent upon statements that were put in the record at the time of the hearing that the 70- to 80-megawatt range was what was expected out of this unit. That's in my opinion not reflected in the contract and that does need to be tightened up because all of our cost-effectiveness analysis are hinging upon a minimum 70-megawatt capacity commitment in the contract.

COMMISSIONER BALBIS: Okay. And then my final comment. I know in the, the hearing process there were concerns about, and raised, it's in the record, as far as any delays or cost overruns for the electrical component. And in going through the purchased power agreement, it seems very clear to me that any delays by I believe it's 2016 or if there's any cost overruns, the, the advanced capacity payment of the \$56 million, that is set. So whether it costs 70 or 80, there will be no additional burden to the ratepayers; is that correct?

MR. TRAPP: That's my understanding, but I really would defer to primary Staff on that who did most of the analysis of the contract.

COMMISSIONER BALBIS: Okay.

MR. BROWN: That is correct, Commissioner.

The, the set price of the electrical component is the \$56 million. So anything over that would not be granted to the company. There are no additional burdens to the ratepayers as long as they don't go over that amount.

Now if they don't meet the 2016 date that you said, then there would be refunds back to the customers. So there are those quidelines in the contract.

both the primary and alternate Staff, if the Commission were to direct Staff or issue the order or whatever the process would be to make sure the contract is extended for 26 months, make sure that the recovery of the \$56 million is in the first year, and make sure that the committed capacity is 70 megawatts, which all your analysis was based upon, that if it hits that number again, it's more cost-effective, would that alleviate both primary and alternate Staff's concerns on the cost-effectiveness of the project?

MR. BROWN: Based on the record, it would alleviate primary Staff's concerns. And if we do get that additional 26 months, then, as you said earlier, the benefits would increase. I think alternate Staff had a different look at it based on some of the

assumptions, and I'll let him go on that.

MR. TRAPP: Based on the information we know in the record in this case, yes, it would alleviate my concerns.

COMMISSIONER BALBIS: Okay. Thank you. I have no further questions.

CHAIRMAN GRAHAM: You were doing a fantastic job.

(Laughter.)

COMMISSIONER BALBIS: I just wanted to give other Commissioners the opportunity to provide comments. If not, I mean, I would be ready to make a motion.

Again, I look forward to Commissioner comments on that.

CHAIRMAN GRAHAM: All right. Hold on just a second. I'll be right back to you.

Commissioner Brown.

COMMISSIONER BROWN: Well, Commissioner
Balbis, thank you so much. You asked exactly all of my
questions, so I really appreciate your -- you've taken
the lead on this.

And I just wanted to firm something up with Staff. Is Staff recommending that the, that the contract reflect 70 megawatt committed capacity, not the range 70/80 as was reflected in the testimony at the hearing? Is that Staff's recommendation?

MR. BROWN: I think we're looking at the range right now. But the company did say that they're going to fix that number at some point. I'm going to defer a little bit to Mr. Ballinger and let him explain.

MR. BALLINGER: Yes. I would keep the range at 70 to 80. That's what was testified to at the hearing in the record. It also gives SWA the flexibility, if they see that they get additional waste coming in, they can commit additional capacity and would result in additional savings to customers at no additional cost. Because, as Mr. Brown said earlier, the advanced capacity payment is the same. Whether it's 70 or 80 megawatts, it doesn't change. So I would keep the range at 70 to 80.

COMMISSIONER BROWN: Okay. Thank you.

CHAIRMAN GRAHAM: Commissioner Balbis.

COMMISSIONER BALBIS: Thank you, Mr. Chairman.

Knowing there's a multitude of issues and fallout issues associated with it, I would move to direct Staff to -- or I guess move that the PPA be revised to require a 26-month extension, the one-year recovery of the advanced capacity payment, and revising the range of the committed capacity to 70, 80 megawatts. And however we get to that point, I'd like Staff to figure it out, but I'd like to make that motion.

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CHAIRMAN GRAHAM: State that one more time, please.

COMMISSIONER BALBIS: I would move to direct
Staff to revise the PFA and submit it to the parties
that requires the contract be extended by 26 months, and
also revise that the, the committed capacity is 70 to
80 megawatts rather than 45 to 90, and that the advanced
capacity payment be recovered in the first year in order
to alleviate the concerns of the cost-effectiveness,
cost-effectiveness of the PPA and to have the least
impact on the ratepayers.

MR. TRAPP: Could, could Staff do a point of clarification?

COMMISSIONER BALBIS: Yes.

MR. TRAPP: We agree with your motion. On the one-year recovery, I've conferred with counsel and I think we agree that that's a regulatory cost recovery treatment that's not in the contract, so it should be in the order. I think you can order it.

COMMISSIONER BALBIS: I agree. I agree.

MR. MURPHY: And would you also -- would your motion also encompass modifying the closed docket so that it comes back to be administratively reviewed?

COMMISSIONER BALBIS: Yes. So I could summarize that one more time, if you would like.

1 CHAIRMAN GRAHAM: No. I think we got it. 2 COMMISSIONER BALBIS: Okay. 3 CHAIRMAN GRAHAM: Does Staff have it? MR. MURPHY: This is based on the primary recommendation, your modifications, not the alternative? 5 6 COMMISSIONER BALBIS: Well, I believe there's 7 a modification to each, both primary and alternate Staff recommendations, so I'm not picking one or the other. 8 9 But as long as we get to the point where those revisions 10 are made. And if it's easier to go issue by issue, we 11 can. I just think it would be more effective --MR. MURPHY: I agree with you. I just -- what 12 is the starting point for the drafting? I'm going to 13 have to write this thing. I believe that you've 14 15 answered the alternative. And so I believe if you make the motion to the primary, you get to where I believe 16 17 that you're trying to get. 18 COMMISSIONER BALBIS: Then I -- yes, I make 19 the motion. I don't want to micromanage, so however --MR. TRAPP: I don't want to micromanage 20 21 either, but --22 CHAIRMAN GRAHAM: You have to go down certain paths (phonetic) of the motion is what Commissioner 23 Balbis said, starting from the background of the primary 24 recommendation. 25

Commissioner Edgar. That's been moved and seconded.

was, was just going to elaborate on that point, realizing that there is a lot of discussion on a lot of the issues. And as the Staff points out in the executive summary, the issues are intertwined, but yet per the statute need to be addressed separately and individually in the order to tie all of that together. I was going to suggest, and I think you've just covered that, that we use the primary Staff recommendation as, as the basis to work from, incorporating the amendments that you have suggested as part of your Staff -- as part of your motion.

Also, and I, and I think that's incorporated in there, but the one-year recovery period would incorporate a very small carrying cost that is pointed out in the discussion of the item. And I would also point out, and I think, Commissioner Balbis, you touched on this in your earlier questions or your earlier comments, that there are other environmental benefits to this project that wrap into, from my perspective anyway, some of the analysis of the benefits to the ratepayers and the benefits of the project as a whole. And then I would also point out that from my perspective, and I

think from yours, but from my perspective that the change in the terms of the proposal to the one-year cost recovery would over the term of the life of the project be a considerable savings to the amount paid by the ratepayers over time. Thank you. And with, with all of that I support the motion.

CHAIRMAN GRAHAM: Mr. Trapp, with the motion that's before us now, what concerns do you still have?

MR. TRAPP: I, I agree with the motion with the caveat that I do believe there's a slight blending between the primary and the alternative Staff and that -- I agree with having them bring the contract back for administrative approval without reopening the record or rehashing this.

My concern still center around the uncertainty associated with the planning assumptions, the starting and ending points that occurred in this hearing, and I hope that that would be reflected in the final order.

CHAIRMAN GRAHAM: A legal question. This is coming back for administrative approval. If the Staff doesn't agree with the information that's come back, what's your alternative from that point? I mean, they can continue pushing back and saying this is not what we want, this is not what we want. But is there a concluded -- is there a conclusion where it all comes

back to us or what happens?

MS. HELTON: If Staff does not feel comfortable with the amended contract, assuming there's an amended contract that comes back to them for administrative approval, then we would bring that back before you.

CHAIRMAN GRAHAM: Okay. Commissioner Brown.

COMMISSIONER BROWN: Thank you. I think
Commissioner Edgar addressed some of my comments
regarding the one-year period and the substantial
savings, approximately 5 million in present value, net
present value savings. And I think that's important to
point out because that's going to be captured in the
one-year versus over the term of the contract, and I
think that is most beneficial for the ratepayers. So I
would support Commissioner Balbis' motion which I think
is still before us.

CHAIRMAN GRAHAM: Mr. Murphy.

MR. MURPHY: Again because I'm, I'll be writing this, and not to speak for Mr. Trapp but just to clarify, I believe that his concern is that the 2016 avoided cost be limited to this record and that it be considered independently in others. No? Then I'd ask for clarification.

(Laughter.)

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MR. TRAPP: I think the reason that we're offering this alternative approach, and I think it's a very creative and good approach to coming up with a cost-effective package for the ratepayers that achieves all of the good things this project brings forward. problem though is the statute is very specific about the payment, how you're supposed to do the payment, and it ties to determining avoided cost and comparing it to the avoided unit. I agree with you. I don't want anything in this record to adversely affect going forward analysis of avoided cost. But in this record avoided cost is being litigated and it hinges upon the in-service date of the avoided unit. The record opened with a filing that was based on a 2010 Standard Offer Contract, 2025 in-service date. Reasons were given to advance that to 2018 and additional reasons were given to advance it to 2016.

My alternative analysis in this makes me comfortable with the 2018 changes. I become uncertain from then on with respect to the prudence of the summer maintenance assumption that was made in this docket. I become concerned about the prudence of the -- well, the fact that no final decision has been made with respect to advancing or, excuse me, replacing the coal standby units with a brand new 1,200-megawatt gas-fired combined

cycle unit. Therefore, my economic analysis is based on an avoided unit with a beginning date of somewhere either 2017 or 2018. And that's what told me that there were cost concerns with respect to cost-effectiveness, and that's the starting point for my discussions with Staff about how do we fix that? And I think what you've offered is a fix to that.

There are other fixes. You could reduce the payment to SWA. I don't think that's desirable in this case and, therefore, I don't recommend it. I recommend the alternative that has been motioned by the Commission. But I think it's important that the final order recognize that the reason for these alternatives that are being pursued are because of concern about uncertainty associated with the in-service date of the avoided unit, and that's all I ask that be put in the record, that discussion.

CHAIRMAN GRAHAM: Mr. Murphy, you got that?

MR. MURPHY: When I see the transcript, I'll have the sentence (phonetic).

(Laughter.)

CHAIRMAN GRAHAM: Commissioner Edgar.

COMMISSIONER EDGAR: Thank you. I have said over the years a number of times, both sitting here and in meetings with our Staff, that there are issues that

come before us that I am grateful for a primary and an alternate recommendation, and/or different options to go ahead and have those alternatives or options laid out in a, in a fully thought out and fleshed out way. I think that, I know it helps me with my deliberations and considerations sometimes. When there is, when there is not an alternate for a complex issue laid out, it can be more difficult then to craft an alternate patch -- or an alternate path kind of, you know, sitting here under the pressure of the lights. So I am appreciative in this instance and in many other past and I'm sure future for a primary and alternate that helps to illustrate the policy considerations as well as some of the legal and technical.

In this instance I am very comfortable that the motion that has been crafted with the changes both to the primary and to the alternate, but again using the primary as the basis to work from, addresses the concerns that have been raised by our Staff and the path that I, that I think we want to go on and that I want us to be going on. So I think we're there, and I'm ready to vote when you are.

CHAIRMAN GRAHAM: Commissioner Balbis.

COMMISSIONER BALBIS: I just want to again clarify Mr. Trapp's comments again, and I know you got

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there at the end of your comment, but that was that the motion that is before us alleviates your concerns and is a, quote, fix, as you said.

MR. TRAPP: Yes. I think it's very creative.

COMMISSIONER BALBIS: Okay. Thank you.

CHAIRMAN GRAHAM: All right. It's been moved and seconded. All in favor, say aye.

(Affirmative vote.)

Any opposed? By your action you have approved the Balbis amendment to Item Number 4.

done here and for your time. As Commissioner Edgar said -- I've actually had this conversation with both our Executive Director, Chuck Hill, and the General Counsel, Curt Kiser -- that sometimes multiple options work best for us. And you can see, I think this is a perfect example of how we are able to deal with most people's issues, you know, giving, getting more options. I do appreciate your time, and I know you put a lot of work into this. I know when I talked to you on Friday, when I talked to you yesterday, you guys were doing a lot of scrambling, so I do appreciate that, and I do appreciate you working with each other.

That all being said, we are going to be adjourned. We're going to reconvene next door about

STATE OF FLORIDA)			
: CERTIFICATE OF REPORTER COUNTY OF LEON)			
I, LINDA BOLES, RPR, CRR, Official Commission			
Reporter, do hereby certify that the foregoing proceeding was heard at the time and place herein stated.			
IT IS FURTHER CERTIFIED that I stenographically reported the said proceedings; that the same has been transcribed under my direct supervision;			
and that this transcript constitutes a true transcription of my notes of said proceedings.			
I FURTHER CERTIFY that I am not a relative,			
employee, attorney or counsel of any of the parties, nor am I a relative or employee of any of the parties'			
attorneys or counsel connected with the action, nor am I financially interested in the action.			
DATED THIS 1745 day of June, 2011.			
DAILD THIS / / day of Julie, 2011.			
Linds Boles			
LINDA BOLES, RPR, CRR			
FPSC Official Commission Reporter (850) 413-6734			